

In re Appln. of: Kenneth Schoenberger  
Appln. No.: 10/748,838 - Attorney docket: 746-A03-009  
Response to Office Action 9/22/05

Art Unit: 3721

### REMARKS

It is respectfully requested that the present application with amended claims be favorably considered. The number of claims has been reduced to three, and the language has been selected to make the claims specific to the invention and distinguished from the prior art cited and applied of record. Great care and effort have been taken to draft the claims in clear language that distinctly points out and particularly claims the invention. The claims remaining are claims 5, 9 and new claim 10. As noted previously, the essential concept of the invention is to make a container that is good for temperature control. i.e. keeps **contents at low temperature (using frozen gel packs)** for longer times than is possible using the current state-of-the-art. The construction of the container – using 3 radiant barriers composed of metallized polyester plastic film – enables the container to maintain contents at low temperature for a considerable period of time. The steps of the claimed method (see main claim 5) of constructing the container wall and forming into a container are clearly novel and unobvious over the cited and applied reference. In fact, the cited reference does not disclose or use radiant barriers, like the metallized polyester plastic film claimed. The container of the cited and applied reference Hall US Pat. No. 4,441,626, is a pizza box for transporting pizza, a hot product, with the transport allowing for ventilation and, hopefully, preventing the penetration of the grease. Casual note: how many times has the pizza box arrived home with grease on the bottom? No low temperature consideration is involved, and no radiant barriers are used or disclosed. Also, the manner of making the box is different from the method expressed in amended Claim 5. In the reference, the lamination of the two corrugations is effected by gluing the two facing liners together, see below. **In the present invention, the corrugation C is simultaneously bonded to one side of the sandwich of two liners with a radiant barrier between them and to a lamination of a liner and metallized polyester plastic film (radiant barrier). This critical step is not shown or taught by the reference and is a distinct distinguishing difference.** Note the following excerpts taken from the specification of this reference patent:

In re Appln. of: Kenneth Schoenberger  
Appln. No.:10/748,838 - Attorney docket: 746-A03-009  
Response to Office Action 9/22/05

Art Unit: 3721

A box is formed from a unitary, double-sided corrugated cardboard blank having a plurality of scored lines which enable a set up in box form. A bottom panel of the box has cemented thereto a single-sided, fluted corrugated cardboard medium with the fluted side facing upwardly. A moisture-resistant glue is used between the smooth faces of the fluted corrugated medium and the confronting liner of the blank to provide an impenetrable barrier which prevents grease from penetrating through the box. The boxes are manufactured on a conventional production line which is modified by, in effect, running one stage in a reverse direction in order to invert the single-sided medium and to apply the glue in a different manner to establish the moisture barrier.

According to the invention, means are also provided for venting the box either at holes 32, 34 in FIG. 2 or at several selvage enlargements which are cutout at 36, 38 when the blank is formed (FIG. 2A). Research has found that proper ventilation should be attained inside the box to keep the pizza hot and still retain good crust quality, when approximately one square inch of ventilation is provided for each cubic foot of volume, to acquire a proper balance between heat and steam. Therefore, the size of the holes or cutouts is selected to enable just enough steam to escape to prevent the pizza from becoming soggy, but not so much that the pizza box will lose heat. Conveniently, the venting area may be controlled by selecting a correct number of holes so that one size punch will serve all box sizes.

The bleached white flutes 97 are preferably adhered to liner 99 by a regular water resistant starch adhesive, altered by the addition of Ketones. The Ketones create an adequate moisture resistance to prevent delamination of the flute tips from the liner when the steam and grease from the pizza come into contact with them.

The two, single-faced corrugated cardboards, thus formed at work stations 90, 92, are transported in a more or less spaced parallel relationship to another work station 96 where the smooth faces 99, 104 of the liner are laminated together, with a moisture-resistant glue 112 from gluer 110 which forms the moisture (sic) barrier. The glue preferably used to bond the two liners 99, 104 to each other is a P.V.A. type adhesive 112 which creates a grease and moisture barrier. The P.V.A. adhesive conforms with the composition requirements of the FDA Food Additives Regulation 175.105 for food packaging adhesives. A bottom liner 114 pulled from spool 94 is then glued to the lower fluted edge of medium 98 with a conventional corn starch glue, to complete the lower surface of the inventive material.

As is evident from these excerpts, the object of the pizza box is only to transport a hot pizza and allow ventilation. There is no teaching of the use of radiant barriers; the only barrier included in the construction of the pizza box is a moisture barrier in the form of a moisture resistant glue. This is not a disclosure of a radiant barrier. To ignore the

In re Appln. of: Kenneth Schoenberger  
Appln. No.: 10/748,838 - Attorney docket: 746-A03-009  
Response to Office Action 9/22/05

Art Unit: 3721

claimed limitations without a substantial basis therefor is not proper. The claimed limitations are critical and meaningful; without them, the object of the invention is not achievable.

To reiterate, the present invention has for its principal object the transportation of cold products to preserve their fragility and extend their life. According to the invention, as now expressed in amended claim 5, the temperature protection for the contents comes from two sources. First, the three layers of metallized polyester film (radiant barriers) in the box combined or sandwiched to four liners, provides good barrier to heat transfer from radiation and conduction. The second source comes from two airspaces created between the liners by the non-vented fluted mediums forming a barrier resistant to convection. One critical point of the method is expressed in the limitations of Claim 5 set forth below:

e) adhering by using a water resistant starch the "B" flute medium to a the kraft liner on the other side of the laminated sandwich,

f) simultaneously with step e), adhering by using a water resistant starch the "C" flute medium to a kraft liner side of a second lamination comprised of a kraft liner laminated to a metallized polyester plastic film serving as a radiant barrier layer,

These limitations are not shown by the cited and applied reference.

None of the other cited references appear to be relevant.

The invention, as now claimed, is patentable and clearly distinguishes from the cited art of record. In good conscience, the application should be advanced to issue.

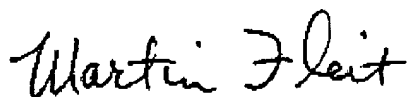
In light of the foregoing remarks, this application should be in condition for allowance, and early passage of this case to issue is respectfully requested. If there are any questions regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

In re Appln. of: Kenneth Schoenberger  
Appln. No.: 10/748,838 - Attorney docket: 746-A03-009  
Response to Office Action 9/22/05

Art Unit: 3721

It is respectfully requested that, if necessary to effect a timely response, this paper be considered as a Petition for an Extension of Time, time sufficient, to effect a timely response, and shortages in this or other fees, be charged, or any overpayment in fees be credited, to the Deposit Account of the undersigned, Account No. 500601 (Docket no. 746-A03-009).

Respectfully submitted,



Martin Fleit, Reg. #16,900

Martin Fleit  
FLEIT KAIN GIBBONS GUTMAN & BONGINI  
21355 East Dixie Highway, Suite 115  
Miami, Florida 33180  
Tel: 305-830-2600; Fax: 305-830-2605  
e-mail: MFleit@Focusonip.com